



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:

Public Notice No. 200301236

Issuance Date:

July 29, 2004

Stream:

Expiration Date:

Left Fork of Sandlick Creek August 28, 2004

Address comments to:

US Army Corps of Engineers, Huntington District

602 Eighth Street

ATTN: CELRHE

Huntington, West Virginia 25701-2070

PUBLIC NOTICE

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Black Wolf Mining Company
Post Office Box 1355
Bluefield, West Virginia 24701

LOCATION: The project is located on unnamed tributaries of the Left Fork of Sandlick Creek and Tug Fork, approximately 1.7 miles southwest of Thorpe and 1.6 miles northeast of Elbert in Adkin District of McDowell County, West Virginia as depicted on **Figure 1** (attached) titled "Permit Location Map." The location of the valley fills and their associated sediment ponds is identified on **Figure 2** titled "Proposed Valley Fills."

DESCRIPTION: The applicant has requested an After-the-Fact permit to authorize completed activities associated with two valley fills and one sediment pond. Construction of the valley fills has resulted in the discharge of fill material into approximately 2,411 linear feet or 0.467 acre of waters of the United States (U.S.). Of this total, 2,222 linear feet or 0.214 acre is ephemeral stream impacts and 189 linear feet or 0.253 acre is open water, which was an abandoned pre-law surface mine pond located near the toe of the valley fill.

Further, approximately 438 linear feet or 0.043 acres of stream channel has been temporarily impacted by construction of the sediment pond. Of this, 294 linear feet or 0.027 acre is ephemeral stream impacts and 144 linear feet or 0.016 acre is intermittent stream impacts. Lastly, approximately 1,350 linear feet or 0.152 acres of ephemeral stream channel between the back of Pond 2 and the toe of Valley Fill 2 has been indirectly impacted by sediment transport. In total, approximately 4,199 linear feet or 0.646 acre of water of the U.S. has been impacted by the project. **Table A** of this public notice details the mining activities and corresponding information with respect to the impact locations and stream loss (linear feet and acres). Valley Fills 1 and 2 affect contributing watersheds of approximately 43.43 acres and 72.44 acres respectively as detailed on **Table B** of this public notice.

Pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the West Virginia Department of Environmental Protection (WVDEP) approved the surface mining permit application (Permit S-4005-97) on October 15, 1997.

The proposed operation has affected 175.66 acres, including 129.13 acres of mineral removal, to facilitate the recovery of 900,000 tons of coal in two splits of the Pocahontas No. 11 seam and two splits of the Firecreek seam. Mineral extraction has been accomplished using mountain top removal mining techniques. The operation has generated over 18.4 million cubic yards of overburden (including the 25% swell factor) of which roughly 11.4 million yards has been backstacked within the mineral removal areas. The remaining seven million cubic yards of excess spoil has been placed in the valley fills as detailed in **Table C** of this public notice.

Mining at this site has been accomplished over a period of approximately five years. Each of the mine phases has been illustrated on the attached phase maps (Figures 3.1, 3.2 and 3.3) and is briefly discussed below.

Phase One (Figure 3.1): Once Pond 1 was constructed and the site of Valley Fill 1 was cleared, Phase 1 mining began at the southeastern end of the permit above Valley Fill 1, and progressed eastward, toward the haulroad and northwardly around the contour. Overburden from these activities was stored in Valley Fill 1. A cut through the mountain was made in the low gap above Valley Fill 1, and mining progressed westwardly to the approximate mid-point of the ridge where a box cut was made. Some of the overburden from this phase was backstacked in the mineral removal area near the haulroad, but most of it was placed in Valley Fill 1 to provide working room for the mining operation.

Phase Two (Figure 3.2): Shortly after the Phase 1 box cut was complete, Sediment Pond 2 was constructed and the upper portion of Valley Fill 2 was cleared and grubbed. The coal on the west side of the box cut was mined from east to west, with alternate lifts taken around the outcrop above Valley Fill 2. Overburden from these operations was pushed into Valley Fill 2 or hauled to Valley Fill 1. A box cut was then constructed through the ridge at the low gap near the southwestern end of the mining permit, as mining on the west side of the Phase 1 box cut was being completed. Alternate lifts were then taken on each side of the Phase II box cut, backstacking the overburden in the mineral removal area and placing excess spoil in the valley fills until the reserves in this area are depleted. At the present time, Phase 2 mining is nearing completion. The mining area has been regraded and revegetated in accordance with contemporaneous reclamation standards set forth in the SMCRA permit, and Valley Fill 1 is being reclaimed.

Phase Three (Figure 3.3): Once mining is complete in the southern boundary of the permit, the remaining reserves north of Valley Fill 1 would be mined while Valley Fill 2 is being reclaimed. Overburden from this area would be backstacked in the Phase Two mineral removal area and used to complete reclamation. Sufficient overburden would be kept on site to complete reclamation in the Phase 3 mineral removal area. Final reclamation shall consist of regrading and revegetating 17.23 acres north of Valley Fill 1. Once the Phase 2 vegetation release of the Article 3 permit is approved, Sediment Ponds 1 and 2 would be reclaimed and abandoned in accordance with plans approved in the Article 3 permit.

Table D of this public notice has been included to provide the disturbed and reclaimed acreage of each of the phases discussed above, along with the length in months that each phase is anticipated to last.

According to the applicant, the purpose of the project was to construct valley fills to dispose of excess overburden (spoil) generated by surface mining operations into waters of the United States in order to achieve optimal recovery of the available coal reserves within the project area. Sediment ponds have been constructed below the fills to provide the mandatory sediment control for the excess spoil disposal areas.

Plans for the proposed valley fills can be found on **Figure 5 through 8** of this public notice.

As previously described, the work was completed without prior authorization. As required by the rules and regulations governing the Department of the Army permit program, it was determined that since this work does not present an immediate threat to life or property, an After-the-Fact application would be accepted and processed. All investigations and legal proceedings will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

MITIGATION PLAN: The applicant has submitted a conceptual mitigation plan to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. To compensate for permanent impacts to waters of the U.S., the applicant proposes to use off-site banked mitigation credits from in-kind restoration and enhancement of aquatic resources. **Figure 4** depicts the geographic relationship between the impacted site(s) and the mitigation site(s). The offsite mitigation area is located within a 2,775 linear foot segment of Belcher Branch and within a 1,150 linear foot segment of an unnamed tributary of Belcher Branch. The habitat enhancement of Belcher Branch consist of removal of debris in and around the stream, the installation of rock and wood structures for stabilization of the stream banks and habitat enhancement, and re-vegetation for areas that may be disturbed by pre-law mining and construction activities.

To compensate for temporary impacts to waters of the U.S., the applicant proposed to mitigate on-site through in-kind restoration and enhancement of aquatic resources. Restoration of the stream channels would include the re-establishment of bank full and flood prone areas. Channel enhancement measures would include removal of debris along the stream channels, installation of rock and wood structures for bank protection and re-directing water flow, and reestablishment of the riparian vegetative buffer zone along impacted areas.

Riparian buffer zones would be established along the mitigation sites and are expected have a great influence on both aquatic and terrestrial fauna and habitat. Vegetation surrounding these aquatic resources is expected to filter sediments, provide shade, aid in bank stability to reduce erosion problems, and produce detritus and essential nutrients for fish and invertebrate survival.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED / THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other inters factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

If you have **any** questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.


Ginger Mullins, Chief
Regulatory Branch

(W)

Table A
Black Wolf Mining Company
Navaro Surface Mine
Jurisdictional Waters Impact Summary

	Permanent Open Water	Permanent Embayment	Temporary Inundation	Temporary Embayment	Permanent Inundation	Permanent Embayment
Valley Fill No. 1	189	0.253	900	0.062		
Pond No. 1			144	0.016	294	0.027
Valley Fill No. 2			1322	0.152		
Pond No. 2					1350	.152
Totals	189	0.253	2222	.214	144	0.016
					0	0
					1350	0.152

Table B
Black Wolf Mining Company
Navaro Surface Mine
Affected Drainage Areas

Valley Fill Site	
Valley Fill 1	43.43
Valley Fill 2	72.44
Total	115.87

Table C
Black Wolf Mining Company
Navaro Surface Mine
Total Fill Volume / Valley Fill Disposal Site

Valley Fill Site	
Valley Fill 1	2,565,139
Valley Fill 2	3,973,426
Total	6,538,565

Table D
Black Wolf Mining Company
Navaro Surface Mine
Mining and Reclamation Schedule

ACRES							
1	0	20	57.42	0	20	7.11	50.31
2	20	60	102.93	20	60	91.52	61.72
3	60	66	17.23	60	66	61.72	17.23
Final Reclamation				66	72	17.23	0

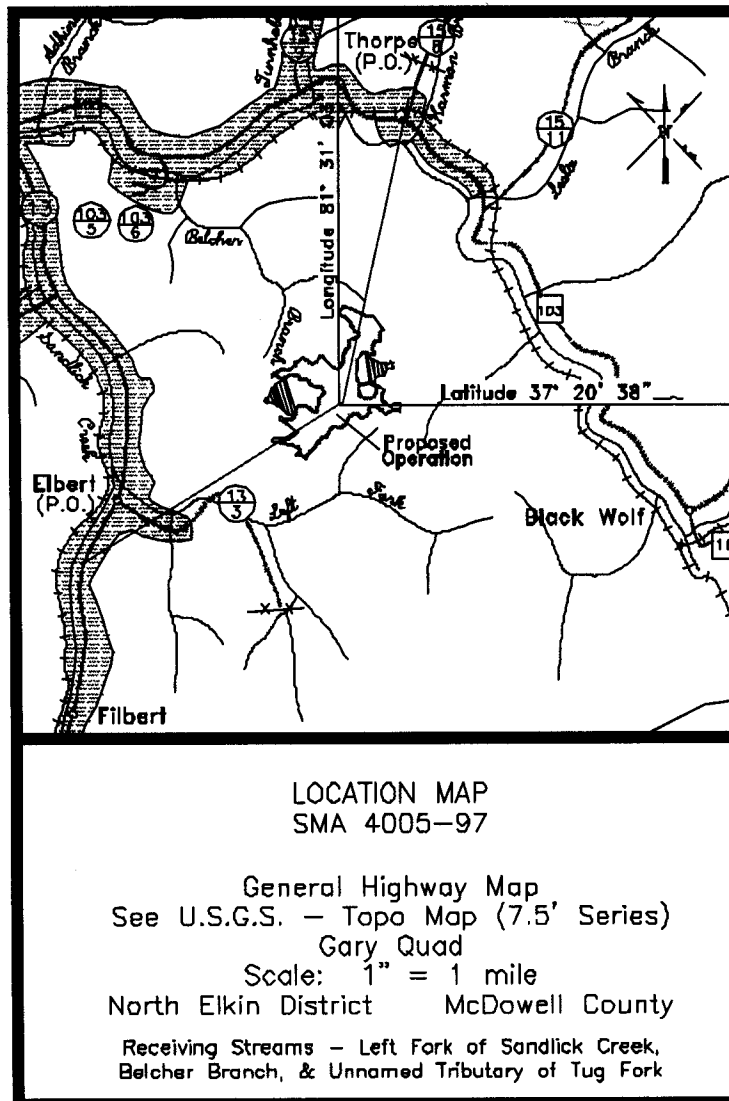


Figure 1. Permit Location Map

Map indication general location of Black Wolf Mining Company's Navaro Surface Mine in McDowell County, West Virginia.

0 0.5 1 Miles

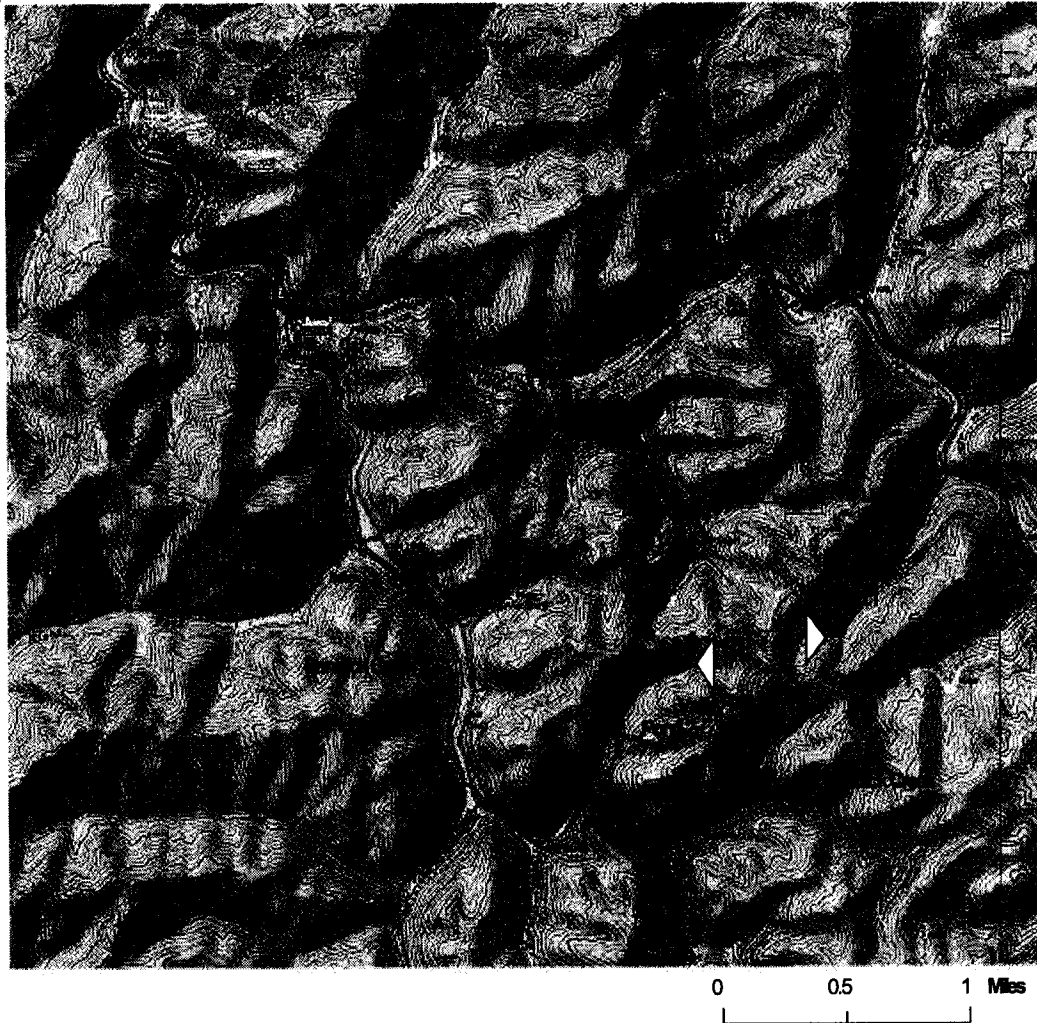


Figure 2. Proposed Valley Fills
The general location of the area to be impacted by proposed mining activities of Black Wolf Mining Company in relation to the town of Gary, West Virginia

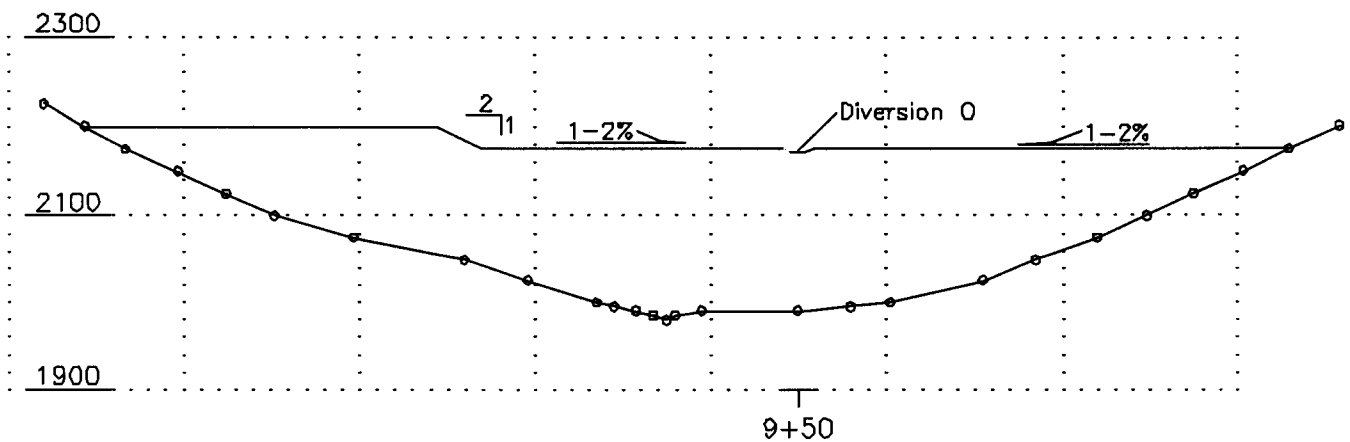
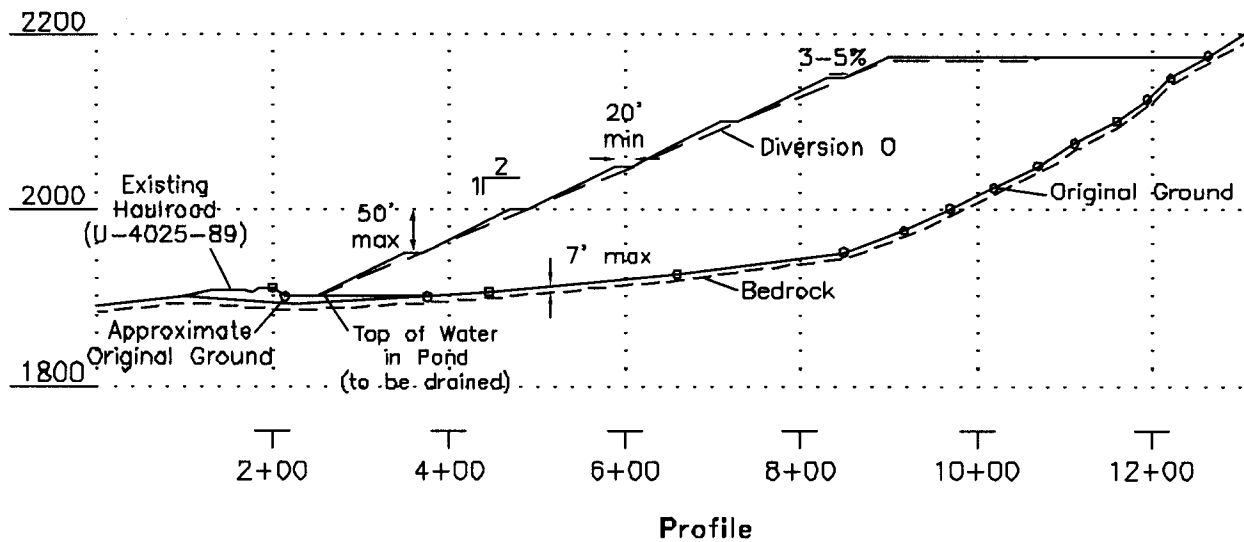


Figure 6
Black Wolf Mining Company
 Navaro Surface Mining Operation
 Permit 8-4005-97
 Cross Section - Valley Fill No. 1
 Scale: 1" = 200' March, 2004

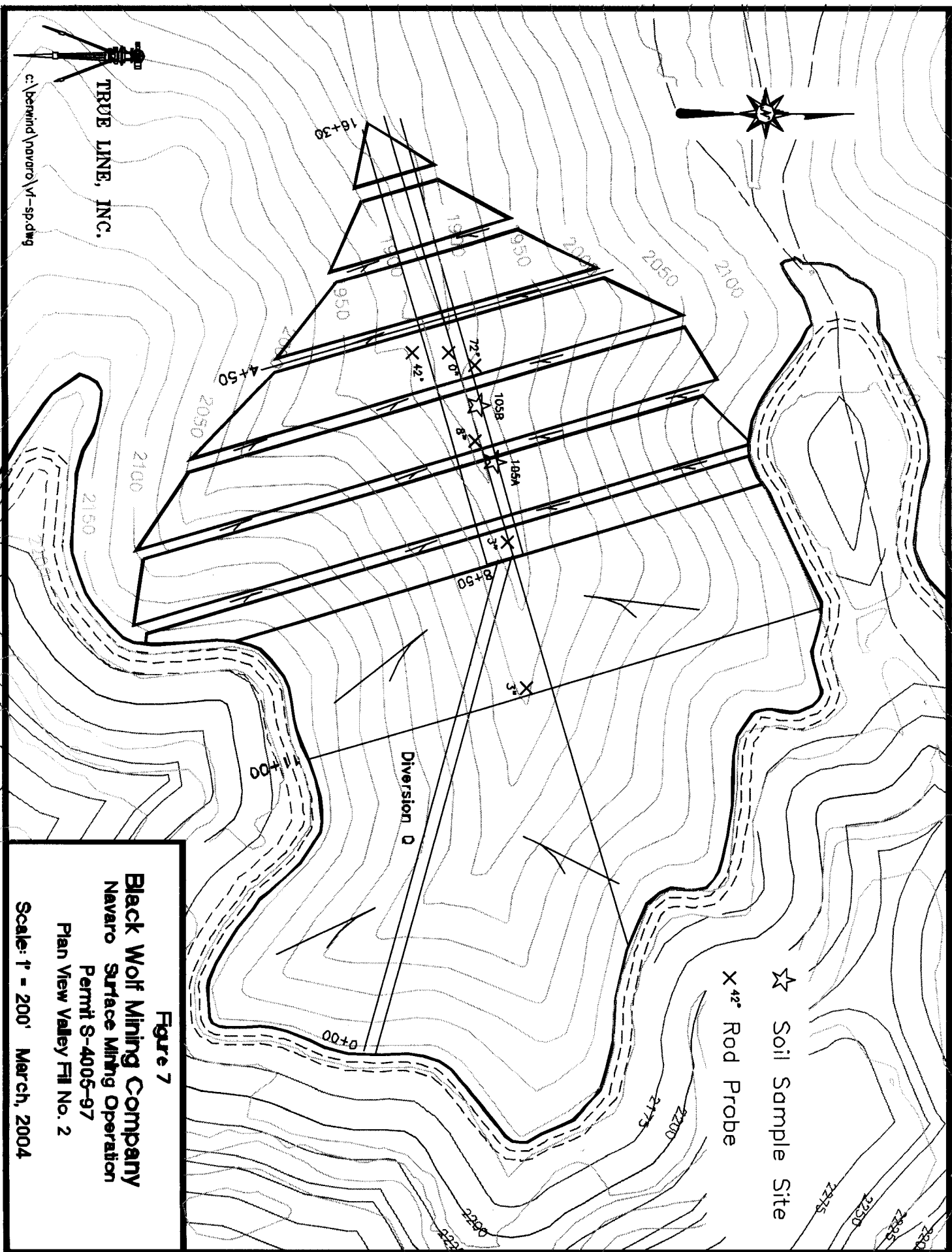


Figure 7

Black Wolf Mining Company

Navaro Surface Mining Operation

Permit S-4005-97

Plan View Valley Fill No. 2

Scale: 1" = 200' March, 2004

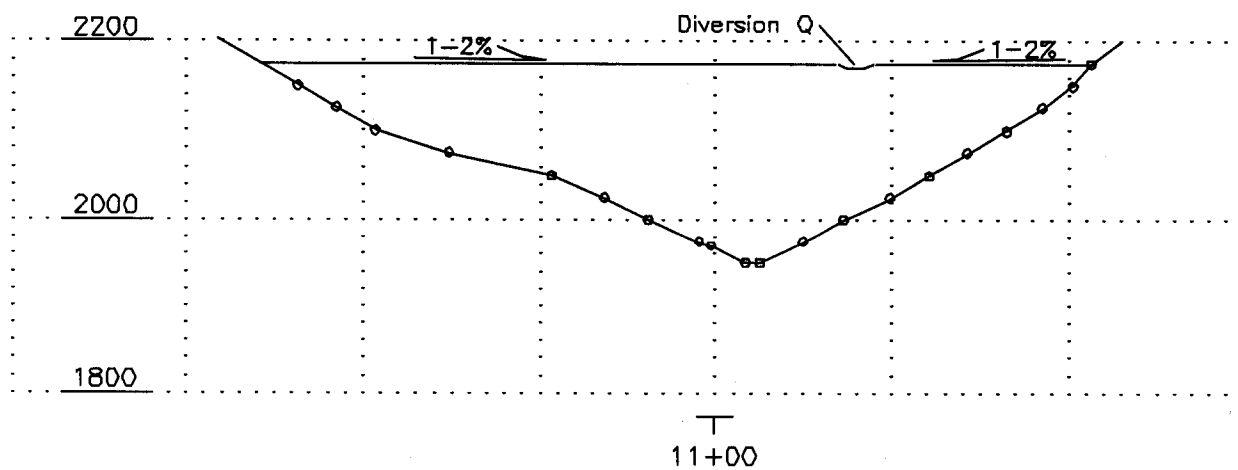
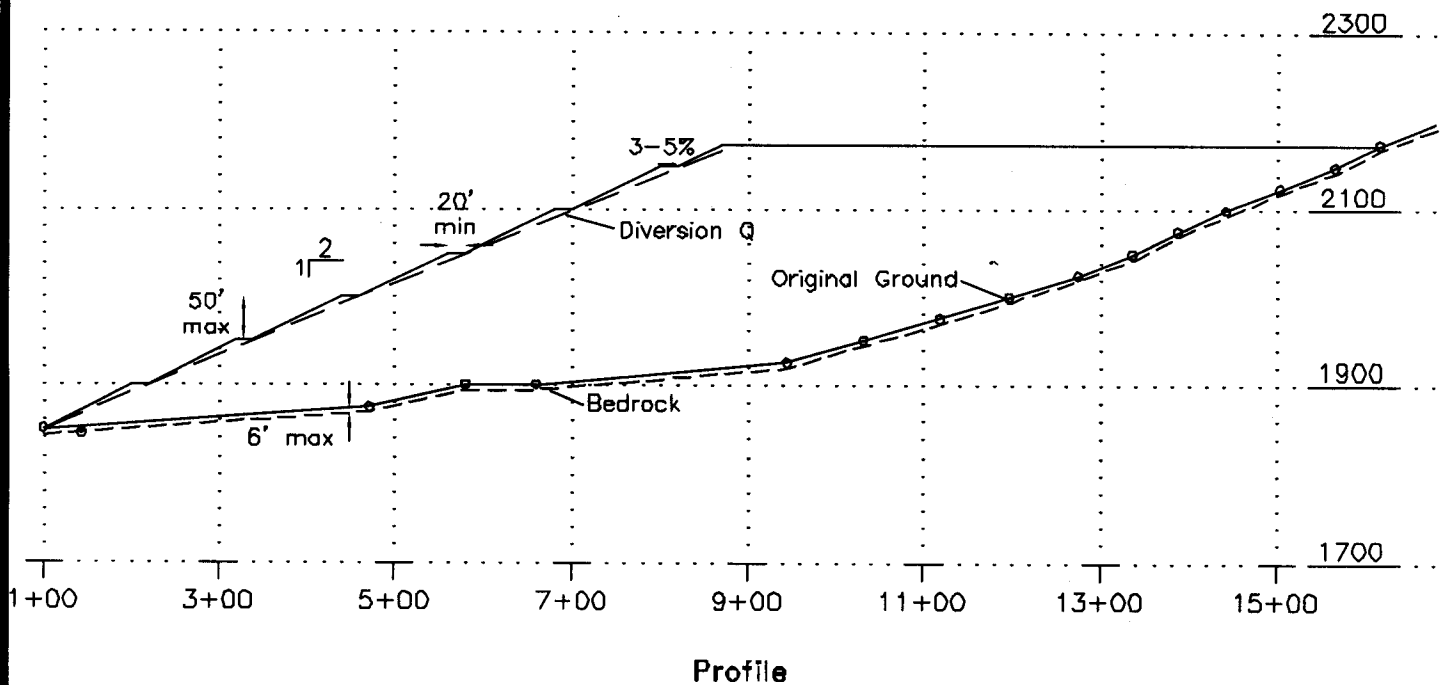





Figure 8
 Black Wolf Mining Company
 Navaro Surface Mining Operation
 Permit S-4005-97
 Cross Section - Valley Fill No. 2
 Scale: 1" = 200' March, 2004

Legend

	Undisturbed Areas	50.31 Ac.
	Disturbed & Unreclaimed	7.11 Ac.
	Disturbed & Reclaimed	

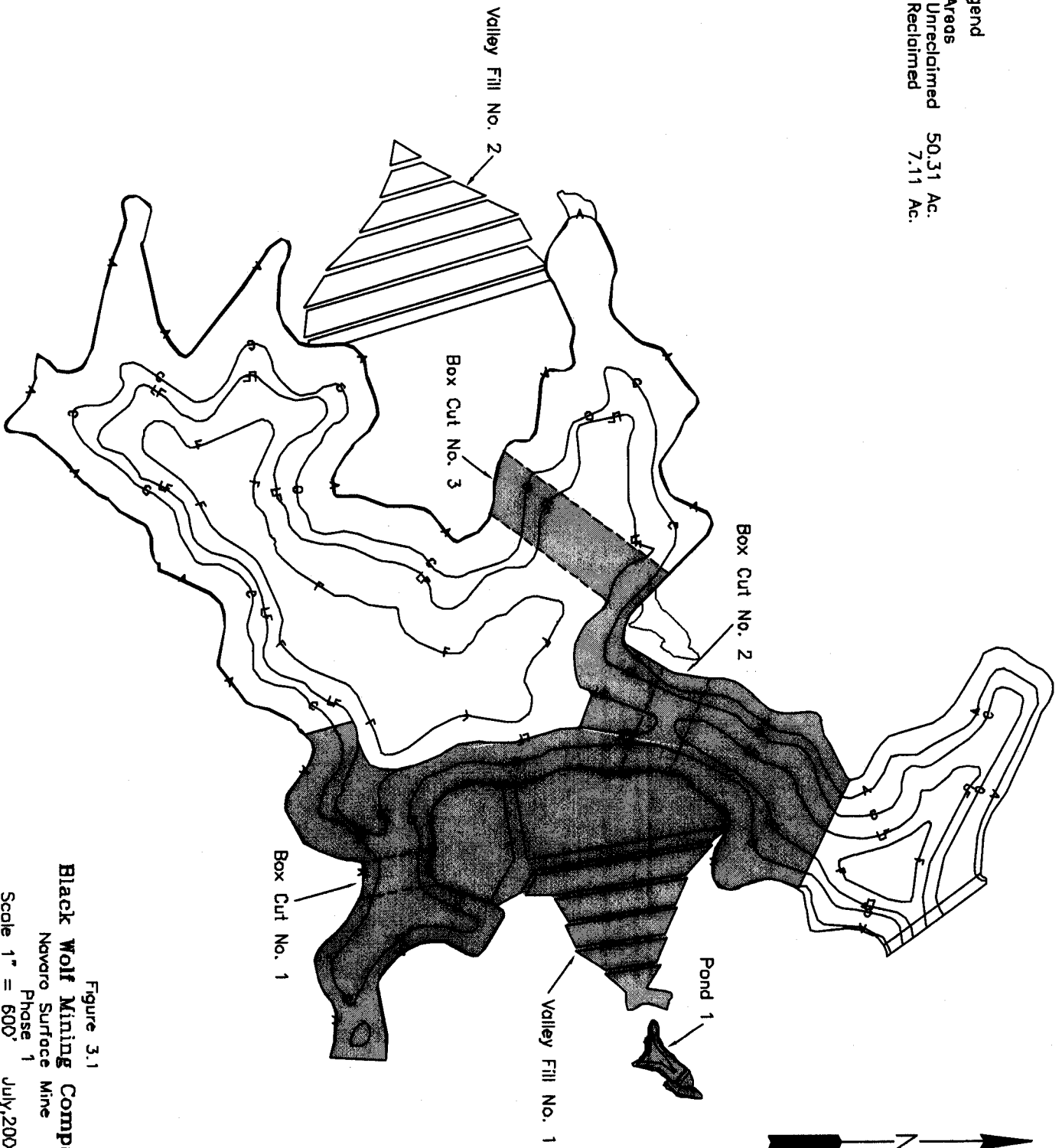







Figure 3.1
Black Wolf Mining Company
 Navero Surface Mine
 Phase 1
 Scale 1" = 600'
 July, 2004

Legend	
	Undisturbed Areas
	Previously Disturbed & Reclaimed
	Phase 2 Disturbance
	Phase 2 Reclamation
	Total Disturbed & Unreclaimed
	7.11 Ac.
	50.31 Ac.
	102.93 Ac.
	91.52 Ac.
	61.72 Ac.

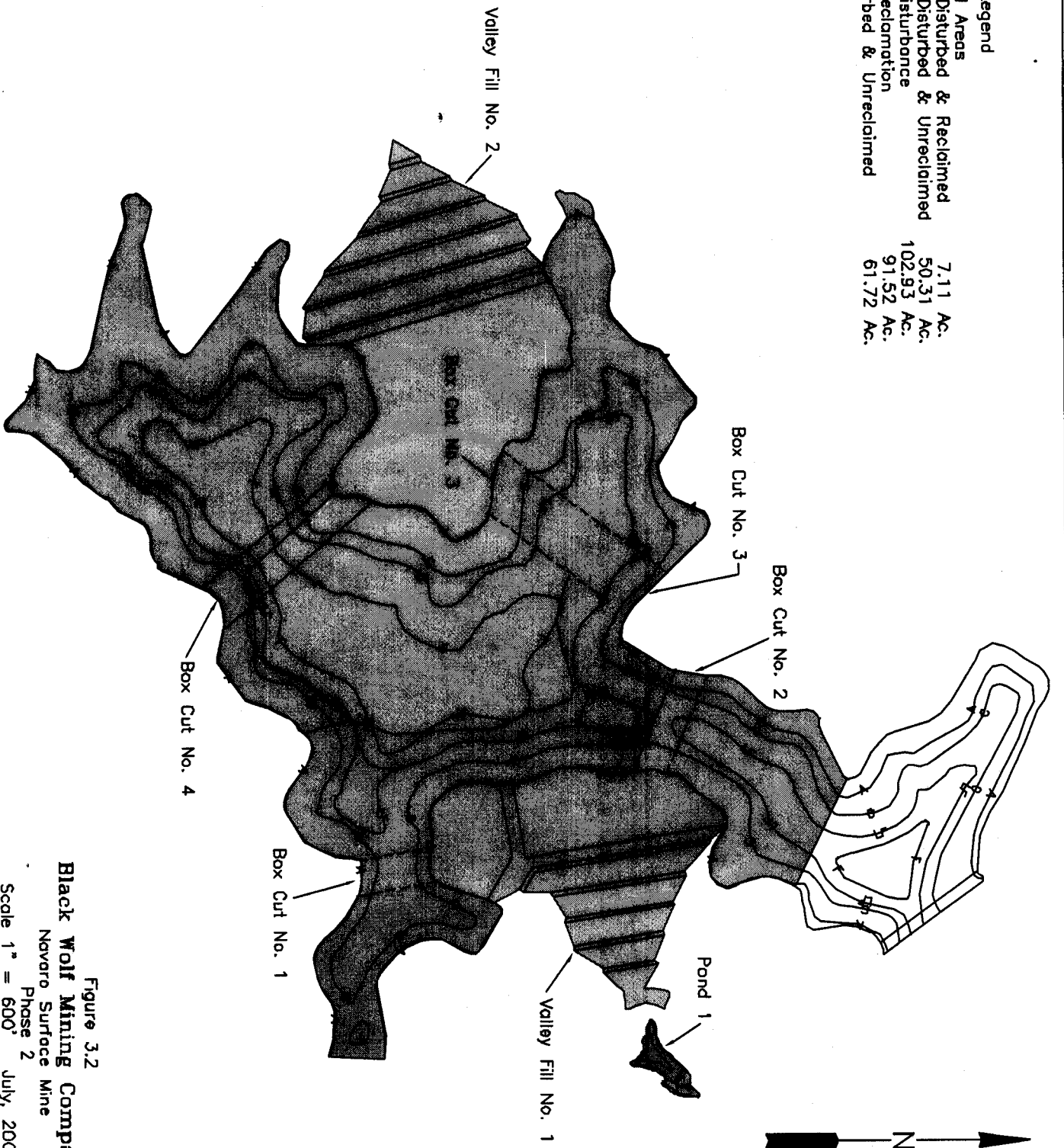


Figure 3.2
Black Wolf Mining Company
 Novoro Surface Mine
 Phase 2
 Scale 1" = 600' July, 2004

Legend
 Previously Disturbed & Regraded 98.63 Ac.
 Phase 3 Reclamation 61.72 Ac.
 Phase 3 Mining & Final Reclamation 17.23 Ac.

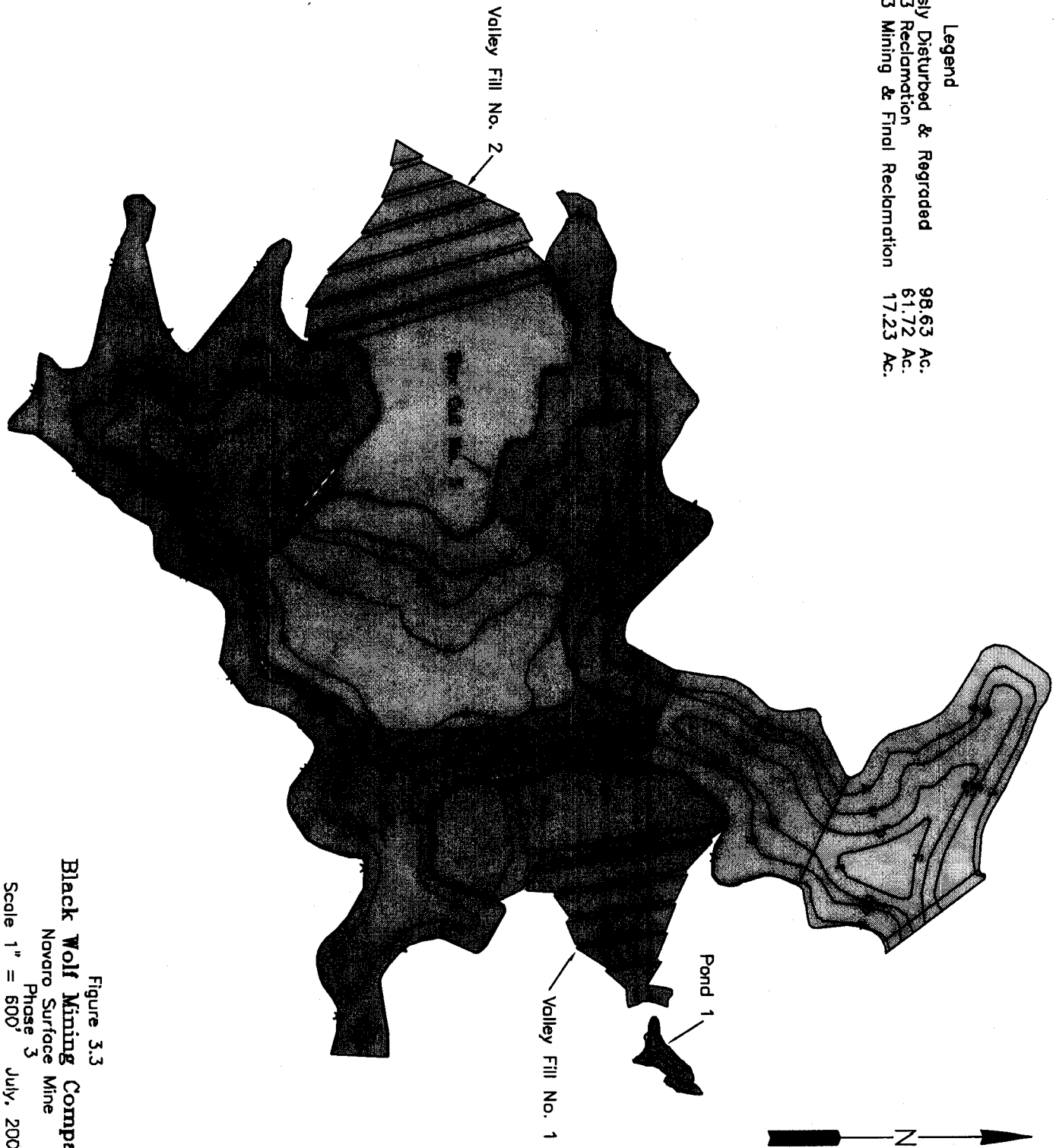


Figure 3.3
 Black Wolf Mining Company
 Navaro Surface Mine
 Phase 3
 Scale 1" = 600'
 July, 2004

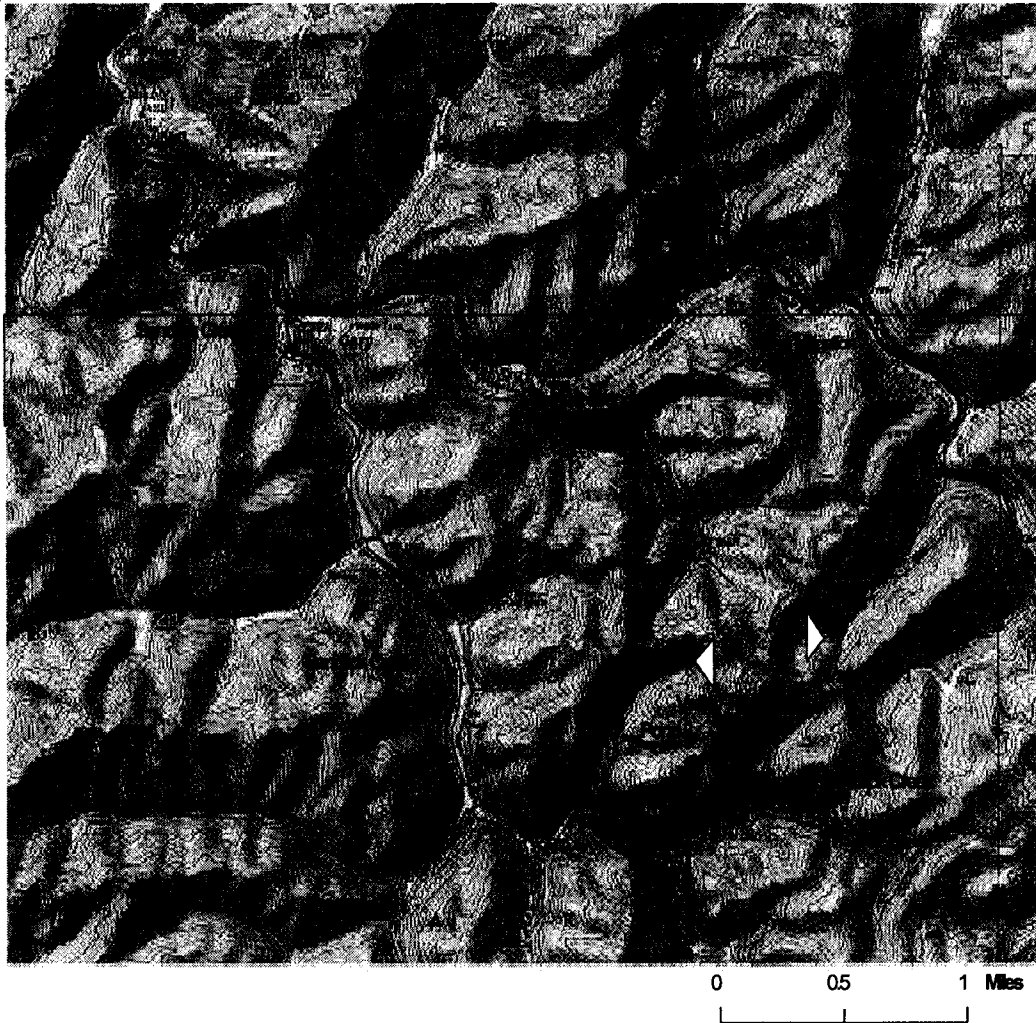


Figure 4. Geographic Relationship between the Proposed Impact Sites and the Proposed Mitigation Site